IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICGTION

INCOME TAX REFERENCE NO. 105 of 1986

The Commissioner of Income Tax ... Applicant.

vs.

Late Shri M. C. Setalvad ... Respondent

Mr. Ashok Katangale for Applicant.
S. J. Mehta for Respondent.

CORAM: V**. C. DAGA AND A. S. AGUIAR JJ.**

Date: 6th July, 2005.

P. C.:

1. By this reference under section 256 (1) of the Income Tax Act , 1961, the Income Tax Appellate Tribunal has referred the following questions of law for the opinion of this court:

> "Whether on the facts and circumstances of the case, the Tribunal was justified in law in holding that the amounts of outstanding fees, due to the deceased at the time of his death and received by the executor of his estate were not liable to be included in the executor's total income?

2. Heard learned counsel for both sides. Perused reference proceedings.

3. For the reasons recorded by us in our judgment dated 1st July 2005

passed in Income Tax Reference No. 397 of 1988 (**C.I.T. vs. M/s. Pithwa Engg. Works),** wherein we have relied upon decision of this court in the case of **Commissioner of Income-tax v/s. Camco Colour Co.,** reported in ITR Vol. 254 (2002), page 565 we do nto think it necessary to answer the reference made to this Corut for the Assessment Years 1976-77 and 1977-78, having negligible tax effect. Accordingly, reference stands returned unanswered with no order as to costs.

(A. S. AGUIAR J.) (V. C. DAGA J.)

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